

Overview of Adoption Procedures

*Suzanne Darling, Probate Register
Kalamazoo County Probate Court*

- Temporary Placements
- Direct Placement
- Relative/Stepparent Adoption
- Agency Placement
- Adoption Placement or Order Prohibited
- Rehearings and Appeals Under Adoption Code
- Release of Information

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- **Release** – Document in which all parental rights over a specific child are voluntarily relinquished to Family Independence Agency or child placing agency.

- **Consent** – Document in which all parental rights over a specific child are voluntarily relinquished to the court for placement with a specific adoptive family.

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TEMPORARY PLACEMENTS

I. Defined.

- A. Placement that occurs before court approval.

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II. In direct placement adoption.

- A. By parent/guardian with legal and physical custody.
 - 1. Must be assisted by child placing agency or attorney.

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III. In an agency placement.

- A. Child placing agency with authorization from parent/guardian. PCA 329.
 - 1. Minor parent's parent/guardian must sign.

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IV. Meet all the following requirements.

- A. Prospective adoptive parent must be a Michigan resident.
- B. Parent/guardian or representative of child placing agency signs document evidencing transfer. PCA 330 or PCA 331.
 - 1. Minor parent's parent/guardian must also sign.

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IV. Meet all the following requirements.

- C. Prospective adoptive parent must also sign statement. PCA 332.
- D. Non-identifying information provided to prospective adoptive parents.

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V. First report to court.

- A. Submit to county where prospective adoptive parents reside.
- B. Not later than 2 days (excluding weekends and holidays) after transfer of physical custody.

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V. First report to court.

- C. Filed by child placing agency or attorney who assisted in temporary placement.

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V. First report to court.

- D. In a direct placement adoption by submitting:
 - 1. Statement of parent/guardian and report. PCA 330.
 - 2. Statement of prospective adoptive parent. PCA 332.

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V. First report to court.

- E. In an agency placement by submitting:
 - 1. Statement of parent authorizing temporary placement. PCA 329.
 - 2. Statement of child placing agency and report. PCA 331.
 - 3. Statement of prospective adoptive parent. PCA 332.

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VI. Follow-up report to the court.

- A. In county that received the first report.
- B. Not later than 30 days after transfer of physical custody.
- C. Filed by child placing agency or attorney.
- D. By submitting:
 - 1. Follow-up Report. PCA 333.

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Temporary Placements Duty of Register

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I. Upon receipt of first report.

- A. Note date of physical transfer of child found on PCA 330 or PCA 331.
- B. Using date of physical transfer, calendar for mandatory review 45 days from that date.
- C. Create file.

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II. Upon receipt of follow-up report. PCA 333.

- A. Report (PCA 334) to Prosecutor, if:
 - 1. Petition for adoption has not been filed, and
 - 2. Child has not been returned to parent or other person having legal custody, and
 - 3. Petition has not already been filed by parent, child placing agency, or prospective adoptive parent.

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III. If follow-up report is not
filed within 45 days.

- A. Investigate and determine if II.A.
1, 2, or 3, has taken place. If not,
- B. Report to prosecutor. PCA 334.

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IV. Upon receipt of report,
Prosecutor must immediately
file petition. PCA 335.

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Temporary Placement
Petitions to Determine Custody

I. By parent/guardian who
wishes to regain custody.
PCA 337.

- A. Filed in court that received
first report

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I. By parent/guardian who
wishes to regain custody.
PCA 337.

- B. If parent/guardian requests, child
placing agency or attorney who
assisted, must assist parent/
guardian.
 - 1. If child placing agency made
placement pursuant to authority,
child placing agency must file
petition on behalf of
parent/guardian.

23

I. By parent/guardian who
wishes to regain custody.
PCA 337.

- C. Action by court on receipt of
petition.
 - 1. Immediately issue an ex parte
order (PCA 337) directing
prospective adoptive parent to
return child within 24 hours,
unless:

24

I. By parent/guardian who wishes to regain custody.
PCA 337.

- a. Court appoints attorney or refers to Family Independence Agency.
PCA 336.
- 1) Either may file child protective proceedings petition.

25

II. By Prosecutor. PCA 335.

- A. For disposition of the child.

27

III. By child placing agency that temporarily placed child.
PCA 335.

- 2. Child placing agency has legal custody (all rights of parents terminated) but does not want to proceed with adoption.
 - a. Prospective adoptive parent refuses to return child to child placing agency upon request.

29

I. By parent/guardian who wishes to regain custody.
PCA 337.

- 2) Child must be removed from home of prospective adoptive parent upon appointment or referral.
 - a) Disposition based on Section 18, of Probate Code. (Foster Care)
- 3) If no petition filed, within 14 days after appointment or referral, court must order return of child to parent/guardian.

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III. By child placing agency that temporarily placed child.
PCA 335.

- A. Grounds.
 - 1. Unable to proceed with adoption because of unavailability of parent/guardian to execute release.

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IV. By prospective adoptive parent. PCA 335.

- A. Grounds.
 - 1. Unwilling or unable to proceed with adoption.

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V. In petitions filed by prosecutor,
child placing agency or
prospective adoptive parents.

- A. Filed in court that received first report.
- B. Actions by court on receipt of petition.
 - 1. Set hearing to be held not later than 14 days after filing of petition.
 - 2. May appoint guardian ad litem for child or minor parent of child.

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V. In petitions filed by prosecutor,
child placing agency or
prospective adoptive parents.

- C. Action by court after hearing. PCA 336.
 - 1. May return child to child placing agency that has obtained legal custody.
 - 2. May return child to parent/guardian with legal custody.

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V. In petitions filed by prosecutor,
child placing agency or
prospective adoptive parents.

- 3. May appoint guardian under EPIC on petition filed by prospective adoptive parent or another person interested in welfare of child.
 - a. Make temporary disposition under Section 18 of Probate Code until an order of guardianship is entered.

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V. In petitions filed by prosecutor,
child placing agency or
prospective adoptive parents.

- 4. May appoint attorney or refer to Family Independence Agency.
 - a. Either may file child protective proceedings petition.
 - b. Child must be removed from home of prospective adoptive parents upon appointment or referral.
 - 1) Disposition based on Section 18 of Probate Code.

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V. In petitions filed by prosecutor,
child placing agency or
prospective adoptive parents.

- c. If no petition filed within 14 days after appointment or referral, court must return child to parent/guardian.

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DIRECT PLACEMENT

36

I. Defined.

- A. Placement where parent/guardian selects adoptive parent for child, other than step-parent or individual related within 5th degree by marriage, blood, or adoption and transfers physical custody to prospective adoptive parent.
- B. If temporary placement, petition for adoption must be filed with court that received first report filed in temporary placement.
- C. Temporary placement does not need to precede formal placement.

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II. Petition. PCA 301a.

- A. Name, date and place of birth, residence of each petitioner, maiden name of adopting mother.
- B. Name, date, place of birth, residence of adoptee. *
- C. Relationship, if any, to petitioner.
- D. Full name by which adoptee shall be known after adoption.

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II. Petition. PCA 301a.

- E. Full description of property, if any, of the adoptee.
- F. Names of parents and place of residence of each living parent, if known, unless parental rights were terminated by court of competent jurisdiction. *

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II. Petition. PCA 301a.

- G. Name and place of residence of guardian or person or estate of adoptee. *
- H. Where parties have elected not to exchange identifying information * may be omitted.
- I. Attorney or child placing agency shall file verified statement containing the omitted information. PCA 340.

40

III. Attachments to petition.

- A. Verified statement that petitioner has been informed of the availability of counseling services and whether petitioner has received counseling. PCA 339.
- B. Copy of preplacement assessment completed within one year of filing finding petitioner is "suitable to be a parent of the adoptee."

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III. Attachments to petition.

- C. Copies of other preplacement assessments.
- D. Verified statement stating no other preplacement assessments completed and/or explaining any initiated but not completed.

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IV. Documentation with petition.

- A. Copy of each release or order terminating rights.
- B. Copy of commitment if made to child placing agency or Family Independence Agency.

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IV. Documentation with petition.

- C. Proof of guardian's appointment and authorization to execute release or consent.
- D. Copy of consent.
- E. Copy of adoptee's birth certificate or verification of birth.
- F. Report of investigation.

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IV. Documentation with petition.

- G. An affidavit verifying if petition alleges nonsupport and noncommunication.
- H. Non-identifying information completed by parent.
- I. Any additional facts considered necessary by the court.

45

V. Investigation

- A. Court may use preplacement assessment and may order an additional investigation by employee of court or child placing agency.
- B. Individual seeking to adopt may request at any time a preplacement assessment to be prepared by child placing agency.

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VI. Duty of court.

- A. Before or at time of hearing on petition court must inform adoptee if 14 or older and adoptive parents of provisions in MCL 710.27(a)(b) and 68, 68 (a) (b), and provide a list of adoption support groups.

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VI. Duty of court.

- B. This includes information:
 - 1. Parent may file with Central Adoption Registry statement consenting to or denying release of identifying information.
 - 2. Consent or denial may be filed, revoked or updated any time.

48

VI. Duty of court.

3. Consent to release of identifying information is presumed unless a denial is filed with Central Adoption Registry.
4. The court shall provide the necessary forms. FIA 1919, FIA PUB 439.

49

VII. Consent of parents.

- A. If consent of mother and legal father cannot be obtained there will be no adoption.
- B. If father is putative and he will not consent his rights may be terminated after hearing on petition to identify father. PCA 310.

50

VIII. Duty of court at time of termination of parental rights.

- A. Court must inform each parent of MCL 710.27(a)(b), 68,68(a)(b) and that parents consent to release of identifying information in MCL 710.27(3)(b) and (c) shall be presumed unless parent files statement with Central Adoption Registry denying release of information.

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VIII. Duty of court at time of termination of parental rights.

- B. Court must explain the parent's right to file, update, or revoke the denial at any time and shall provide each parent with the forms. FIA1919, FIA PUB 439.

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IX. Fees.

	Current	After October 1, 2003
Temporary Placement	\$100.00	\$150.00
Direct Placement (no temporary placement filed)	\$100.00	\$150.00
Direct Placement (filed after temporary placement)	\$20.00	\$20.00
Petition to ID Father (filed at same time as direct placement petition)	No Fee	No Fee
Petition to ID father (filed after filing of direct placement petition)	\$20.00	\$20.00
Order of Adoption	\$10.00	\$10.00

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X. Verified accounting and statements.

- A. At least 7 days before formal placement and again 21 days before entry of final order of adoption the following documents must be filed:
 1. Verified accounting signed by petitioner. PCA 347.

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X. Verified accounting and statements.

2. Verified statement of attorney for petitioner itemizing services. PCA 346.
3. Verified statement of attorney for each parent. PCA 346.
4. Verified statement of child placing agency itemizing services. PCA 345.
5. The court must approve or disapprove all fees and expenses. PCA 341.

55

XI. Formal placement.

- A. If time for filing a petition for rehearing or for filing an appeal has not expired or petition for rehearing or an appeal is pending, court must inform petitioners of consequences of any action taken. PCA 325.

56

XII. Public information form.

- A. Probate Register, not later than 15 days after entry of order of adoption, must forward to Family Independence Agency completed public information form which was filed by primary adoption facilitator or if none filed, a public information form completed by register consisting of the name of primary adoption facilitator and information indicated in MCL 722.124d, MCL 710.58a.

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RELATIVE/STEPPARENT ADOPTION

58

I. Defined.

- A. Relative – within 5th degree by marriage, blood, or adoption. MCL 720.22(w).
- B. Stepparent – a person, together with wife or husband, if married, may file petition.
- C. Filed in county in which petitioner resides or where adoptee is found.

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II. Petition. PCA 301.

- A. Name, date and place of birth, residence of each petitioner, maiden name of adopting mother.
- B. Name, date, place of birth, residence of adoptee.
- C. Relationship, if any, to petitioner.

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II. Petition. PCA 301.

- D. Full name by which adoptee shall be known after adoption.
- E. Full description of property, if any, of the adoptee.

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II. Petition. PCA 301.

- F. Names of parents and place of residence of each living parent, if known, unless parental rights were terminated by court of competent jurisdiction.
- G. Name and place of residence of guardian or person or estate of adoptee.

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III. Documentation with petition.

- A. Copy of each release or order terminating rights.
- B. Copy of commitment if made to child placing agency or Family Independence Agency.
- C. Proof of guardian's appointment and authorization to execute release or consent.

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III. Documentation with petition.

- D. Copy of consent.
- E. Copy of adoptee's birth certificate or verification of birth.
- F. Report of investigation.
- G. An affidavit verifying if petition alleges nonsupport and noncommunication.

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III. Documentation with petition.

- H. Non-identifying information completed by parent.
- I. Any additional facts considered necessary by the court.

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IV. Investigation

- A. Court may use preplacement assessment and may order an additional investigation by employee of court or child placing agency.

66

V. Duty of court.

- A. Before or at time of hearing on petition court must inform adoptee if 14 or older and adoptive parents of provisions in MCL 710.27(a)(b) and 68,68 (a) (b), and provide a list of adoption support groups.

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VI. Consent of parent – relative.

- A. If consent of mother and legal father cannot be obtained, there will be no adoption.
- B. If father is putative and he will not consent his rights may be terminated after hearing on petition to identify father. PCA 310.

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VII. Consent of parent – stepparent.

- A. If consent cannot be obtained rights may be terminated after hearing on petition to identify father (PCA 310) or if appropriate after hearing on supplemental petition (PCA 302).

69

VIII. Duty of court at time of termination of parental rights.

- A. Court must inform each parent of MCL 710.27(a)(b), 68,68(a)(b) and that parents consent to release of identifying information in MCL 710.27(3)(b) and (c) shall be presumed unless parent files statement with Central Adoption Registry denying release of information.

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VIII. Duty of court at time of termination of parental rights.

- B. Court must explain the parent's right to file, update, or revoke the denial at any time and shall provide each parent with the forms. FIA1919, FIA PUB 439.

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IX. Fees

	Current	After October 1, 2003
Petition for Adoption	\$100.00	\$150.00
Petition to ID Father (filed at same time as petition for adoption)	No Fee	No Fee
Petition to ID father (filed after filing of petition for adoption)	\$20.00	\$20.00
Supplemental Petition (filed at same time as petition for adoption)	No Fee	No Fee
Supplemental Petition (filed after filing of petition for adoption)	\$20.00	\$20.00
Order of Adoption	\$10.00	\$10.00

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X. Verified accounting and statements.

- A. At least 7 days before formal placement and again 21 days before entry of final order of adoption the following documents must be filed.
 - 1. Verified accounting signed by petitioner. PCA 347.

73

X. Verified accounting and statements.

- 2. Verified statement of attorney for petitioner itemizing services. PCA 346.
- 3. Verified statement of attorney for each parent. PCA 346.
- 4. The court must approve or disapprove all fees and expenses. PCA 341.

74

XI. Formal placement.

- A. If time for filing a petition for rehearing or for filing an appeal has not expired or petition for rehearing or an appeal is pending, court must inform petitioners of consequences of any action taken. PCA 325.

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AGENCY PLACEMENT

76

I. Defined.

- A. Placement in which child placing agency or Family Independence Agency or a court selects adoptive parent for the child and transfers physical custody of the child to the prospective adoptive parent.

77

II. Petition. PCA 301.

- A. Name, date and place of birth, residence of each petitioner, maiden name of adopting mother.
- B. Name, date, place of birth, residence of adoptee.
- C. Relationship, if any, to petitioner.

78

II. Petition. PCA 301.

- D. Full name by which adoptee shall be known after adoption.
- E. Full description of property, if any, of the adoptee.

79

II. Petition. PCA 301.

- F. Names of parents and place of residence of each living parent, if known, unless parental rights were terminated by court of competent jurisdiction.
- G. Name and place of residence of guardian or person or estate of adoptee.

80

III. Documentation with petition.

- A. Copy of each release or order terminating rights.
- B. Copy of commitment if made to child placing agency or Family Independence Agency.

81

III. Documentation with petition.

- C. Proof of guardian's appointment and authorization to execute release or consent.
- D. Copy of consent.
- E. Copy of adoptee's birth certificate or verification of birth.

82

III. Documentation with petition.

- F. Report of investigation.
- G. An affidavit verifying if petition alleges nonsupport and noncommunication.
- H. Non-identifying information completed by parent.
- I. Any additional facts considered necessary by the court.

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III. Documentation with petition.

- J. Except if consent is not filed, a motion pursuant to MCL 710.45 must be filed. The motion would allege that the decision to withhold the consent was arbitrary and capricious. (No form available).

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IV. Freeing the child for placement.

- A. Need release, termination of parental rights and commitment to child placing agency/Family Independence Agency; or if circuit court family division termination, orders terminating parental rights, making child a permanent ward and committing child to Family Independence Agency.

85

V. Investigation.

- A. Court may use preplacement assessment and may order an additional investigation by employee of court or child placing agency.
 - 1. Except, if adoptee was in foster care with petitioner for 12 months or more and foster family study was completed or updated not more than 12 months before petition filed, court, upon motion of petition, may waive full investigation. Study may be substituted.

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VI. Duty of court.

- A. Before or at time of hearing on petition court must inform adoptee if 14 or older and adoptive parents of provisions in MCL 710.27(a)(b) and 68,68 (a) (b), and provide a list of adoption support groups.

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VI. Duty of Court

- B. This includes information:
 - 1. Parent may file with Central Adoption Registry statement consenting to or denying release of identifying information.
 - 2. Consent or denial may be filed, revoked or updated any time.

88

VI. Duty of court.

- 3. Consent to release of identifying information is presumed unless a denial is filed with Central Adoption Registry.
- 4. The court shall provide the necessary forms. FIA 1919, FIA PUB 439.

89

VII. Consent.

- A. Child placing agency or Family Independence Agency gives consent. PCA 309.

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VIII. Fees

	Current	After October 1, 2003
Petition for Adoption	\$100.00	\$150.00
Order of Adoption	\$10.00	\$10.00
Motion	\$20.00	\$20.00

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IX. Verified accounting and statements.

- A. At least 7 days before formal placement and again 21 days before entry of final order of adoption the following documents must be filed.
1. Verified accounting signed by petitioner. PCA 347.

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IX. Verified accounting and statements.

2. Verified statement of attorney for petitioner itemizing services. PCA 346.
3. Verified statement of attorney for each parent. PCA 346.

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IX. Verified accounting and statements.

4. Verified statement of child placing agency itemizing services. PCA 345.
5. The court must approve or disapprove all fees and expenses. PCA 341.

94

X. Formal placement.

- A. If time for filing a petition for rehearing or for filing an appeal has not expired or petition for rehearing or an appeal is pending, court must inform petitioners of consequences of any action taken. PCA 325.

95

XI. Public information form.

- A. Probate Register, not later than 15 days after entry of order of adoption, must forward to family Independence Agency completed public information form which was filed by primary adoption facilitator or if none filed, a public information form completed by register consisting of the name of primary adoption facilitator and information indicated in MCL 722.124d, MCL 710.58a.

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I. Adoption placement or order prohibited.

- A. Child shall not be placed with prospective adoptive parent and an adoption order shall not be issued if person authorized to place child or court has reliable information that prospective adoptive parent has been convicted of following:

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I. Adoption placement or order prohibited.

1. Accosting, enticing or soliciting child for immoral purpose. MCL 750.145a and MCL 750.145c.

98

I. Adoption placement or order prohibited.

2. If victim under 18 at time of crime.
- a. Criminal sexual conduct in first degree. MCL 750.520b.
 - b. Criminal sexual conduct in second degree. MCL 750.520c.
 - c. Criminal sexual conduct in third degree. MCL 750.520d.
 - d. Criminal sexual conduct in fourth degree. MCL 750.520e.

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I. Adoption placement or order prohibited.

3. A law of another state substantially similar.

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**REHEARINGS AND APPEALS
UNDER ADOPTION CODE**

101

I. Rehearings.

A. Upon filing a petition and notice to interested parties:

- 1. Within 21 days after entry of any order, petition may be filed requesting rehearing.
- 2. Judge may grant rehearing and may modify or set aside order.
- 3. Court shall enter an order with respect to original hearing or rehearing of contested matters within 21 days after hearing or rehearing.

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II. Appeals.

- A. Appeal to court of appeals as of right not later than 21 days after order is entered by court or not later than 21 days after petition for rehearing is denied.
- B. Order of court shall not be stayed pending appeal unless ordered by court of appeals upon motion for good cause shown.
- C. Appeal of court order shall be given priority in court of appeals.

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III. Effective September 1, 2003:

- A. MCR 7.205(F)(5) – Time limit for late appeals to court of appeals from orders terminating parental rights is 63 days, as provided by MCR 3.993(C)(2).
- B. MCR 7.203(C)(2) – Time limit to supreme court is 28 days where appeal is from an order terminating parental rights.

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RELEASE OF INFORMATION FROM ADOPTION RECORDS

105

I. Non-identifying information.

- A. Child placing agency, Family Independence Agency or court having adoption records must release the information to adoptive parent, adult adoptee, or adult former sibling within 63 days of receiving written request.

106

I. Non-identifying information.

- B. If court that terminated rights receives request from former parents or adult former siblings of adult adoptee a request for the identity of the agency, court, or department to which child was committed court shall provide name of agency, court or Family Independence Agency within 28 days of receiving written request.

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II. Identifying information.

- A. Release of information to adult adoptee.
 - 1. On or after May 28, 1945, but before September 12, 1980:
 - a. Name.
 - b. Names of biological siblings at time of termination.

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II. Identifying information.

- c. Identifying information on both birth parents if both parents have filed statements of consent to release identifying information in Central Adoption Registry or one parent if that parent has filed a statement of consent in Central Adoption Registry.
- d. Name of any deceased birth parent.

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II. Identifying information.

- 2. Before May 28, 1945 or on or after September 12, 1980:
 - a. Name.
 - b. Names of biological siblings at time of termination if birth parents have not filed a statement of denial with Central Adoption Registry.
 - c. Any identifying information on any birth parent who has not filed a statement of denial with Central Adoption Registry.

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II. Identifying information.

- B. Release of information to former parent or adult former sibling about adult adoptee's most recent address if adult adoptee has given written consent.

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III. Fees.

- A. A court, adoption agency or Family Independence Agency may charge \$60.00 or the actual cost of releasing information. Part or entire fee may be waived in case of indigence.

112

IV. Confidential intermediary.

- A. Adult adoptee, adoptive parent or a minor adoptee, or an adult child of a deceased adoptee may petition the court to search for and contact a former family member. PCA 342.
- B. Former family member may petition the court to search for and contact an adult adoptee or an adult child of a deceased adoptee. PCA 342.

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V. Fees.

- A. Vary depending on court.

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Overview of Adoption Procedures

*Suzanne Darling, Probate Register
Kalamazoo County Probate Court*